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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11                  COREY FORTMAN,

CASE NO. 20-5019 RJB

12                  Plaintiff,

SECOND ORDER ON MOTION  
13                  v.  
14                  FOR SUMMARY JUDGMENT

DEBT ASSISTANCE NETWORK, LLC,

15                  Defendant.

16                  THIS MATTER comes before the Court the Plaintiff's Motion for Summary Judgment,  
17 or in the alternative, Motion for Partial Summary Judgment against Defendant Debt Assistance  
18 Network, LLC. Dkt. 23. The Court has considered the pleadings filed regarding the motion and  
19 the remaining file.

20                  On January 9, 2020, the Plaintiff filed this case, asserting claims against the Defendant  
21 for violations of the Credit Repair Organizations Act, 15 U.S.C. § 1679, *et. seq.* ("CROA"), the  
22 Washington Consumer Protection Act, RCW 19.86, *et. seq.* ("CPA"), negligence, breach of  
23 contract, intentional misrepresentation, and negligent misrepresentation. Dkt. 1. This case arises  
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1 from the Defendant's alleged unlawful conduct and unfair business practices as a credit repair  
2 organization hired by the Plaintiff. *Id.*

3 On May 10, 2021, the Plaintiff's motion for summary judgment on Defendant's liability  
4 on the Plaintiff's CROA, CPA, negligence and breach of contract claims (Dkt. 23) were granted.  
5 Dkt. 25. The Plaintiff's motion (Dkt. 23) to award him \$11,268.79 was granted. *Id.* The  
6 Plaintiff's motion to award him \$5,000 in emotional distress damages, \$2,500 in "credit  
7 damages," and treble and/or punitive damages (Dkt. 23) were denied without prejudice for lack  
8 of supporting evidence. *Id.* The Plaintiff's motion for an award of attorneys' fees and costs  
9 (Dkt. 23) was granted; but the Plaintiff did not request a particular amount. *Id.* The May 10,  
10 2021 Order further provided:

11 By May 28, 2021, the Plaintiff should supplement the record, if possible, by  
12 filings under oath, providing the evidence and explaining the grounds for the  
13 claims for \$5,000 in emotional distress damages, \$2,500 in "credit damages," and  
14 for treble and/or punitive damages. By that same date, the Plaintiff's attorney  
should supplement the record with a costs and attorney's fee petition. Further, by  
May 28, 2021, the Plaintiff should inform the Court, in writing, what remains in  
the case or if the case can be dismissed and closed after entry of final judgment.

15 Dkt. 25. The facts and procedural history are in that May 10, 2021 Order (Dkt. 25) and are  
16 adopted here. The Defendant did not respond to the Plaintiff's motion and has not participated in  
17 the case for months.

18 The Plaintiff now informs the Court that after the costs and attorneys' fee petition  
19 decision is made, the case maybe closed. Dkt. 27. He did not supplement the record with  
20 evidence relating to the \$5,000 in emotional distress damages, \$2,500 in "credit damages," and  
21 for treble and/or punitive damages claims. The Court should construe this response (Dkt. 27)  
22 and his failure to supplement the record as a voluntary dismissal, without prejudice, of all  
23 remaining claims - those for intentional misrepresentation and negligent misrepresentation and

1 damage claims for \$5,000 in emotional distress damages, \$2,500 in “credit damages,” and for  
2 treble and/or punitive damages.

3 On May 28, 2021, the also Plaintiff filed a motion for costs and attorneys’ fees. Dkt. 26.  
4 That motion is noted June 18, 2021. *Id.* This motion appears to be the only outstanding matter  
5 to be handled in the case before a final judgment can be entered.

6 **ORDER**

7 **IT IS ORDERED** that:

- 8 • The Plaintiff’s notice, construed as a motion for voluntary dismissal, without  
9 prejudice, of Plaintiff’s claims for intentional misrepresentation and negligent  
10 misrepresentation and damage claims for \$5,000 in emotional distress damages,  
11 \$2,500 in “credit damages,” and for treble and/or punitive damages (Dkt. 27) **IS**  
12 **GRANTED**; and
- 13 • Plaintiff’s claims for intentional misrepresentation and negligent  
14 misrepresentation and damage claims for \$5,000 in emotional distress damages,  
15 \$2,500 in “credit damages,” and for treble and/or punitive damages **ARE**  
16 **DISMISSED WITHOUT PREJUDICE**.

17 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
18 to any party appearing *pro se* at said party’s last known address.

19 Dated this 2<sup>nd</sup> day of June, 2021.

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22 ROBERT J. BRYAN  
United States District Judge